

Ordinance No.: 17-32  
Subdivision Regulation Amendment No.: 12-03  
Concerning: Minor Subdivisions – Part of a Lot  
Revised: 12/4/12; Draft No. 1  
Introduced: December 11, 2012  
Public Hearing: January 22, 2013  
Adopted: April 9, 2013  
Effective: April 29, 2013

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

---

By: Councilmember Floreen

---

**AN AMENDMENT** to the Subdivision Regulations to:

- (1) authorize the approval and recordation of a plat for certain properties classified in a one-family residential zone under the minor subdivision procedure under certain circumstances; and
- (2) generally amend the provisions for the application of the minor subdivision process

By amending

Montgomery County Code  
Chapter 50. Subdivision of Land.  
Section 50-35A. Minor Subdivisions – Approval Procedure.

|                              |  |
|------------------------------|--|
| <b>Boldface</b>              | <i>Heading or defined term.</i>  |
| <u>Underlining</u>           | <i>Added to existing law by introduced Subdivision Regulation Amendment.</i>           |
| [Single boldface brackets]   | <i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>       |
| <u>Double underlining</u>    | <i>Added to the Subdivision Regulation Amendment by amendment.</i>                     |
| [[Double boldface brackets]] | <i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i> |
| * * *                        | <i>Existing law unaffected by Subdivision Regulation Amendment.</i>                    |

## OPINION

Subdivision Regulation Amendment No. 12-03 was introduced on December 11, 2012, sponsored by Councilmember Floreen. Landowners filed subdivision plats with the County before such plats were required in 1928. On occasion, landowners ignored the outlines of the lots created by these plats and created parcels by deed before 1928. Houses constructed on these deed parcels were on part of a lot because of the original subdivision. Although these houses were legally built, they were not on lots that conform to the zoning standards that were required of houses built after 1928.

SRA 12-03 would allow the owner of a lot with a house on it that was built under these circumstances to use the minor subdivision process to add to the size of their property by resubdividing with adjoining property. Such subdivisions may still result in a lot that does not satisfy current zoning standards. ZTA 12-18 would allow such lots to continue to be buildable lots and would allow the houses on such lots to be exempt from certain zoning standards.

In its report to the Council, the Montgomery County Planning Board recommended that the Subdivision Regulation Amendment (SRA) be approved.

The County Council held a public hearing on January 22, 2013 to receive testimony concerning the proposed SRA. The SRA was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on April 1, 2013 to review the amendment. The Committee agreed with the recommendations of the Planning Board and recommended approval of SRA 12-03 as introduced.

The District Council reviewed Subdivision Regulation Amendment No. 12-03 at a worksession held on April 9, 2013 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Subdivision Regulation Amendment No. 12-03 will be approved as introduced.

## ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. Section 50-35A is amended as follows:**

**Section 50-35A. Minor Subdivisions – Approval Procedure.**

(a) *Preliminary Plan Not Required.* The submission of a preliminary subdivision plan, under [Sec.] Section 50-34 and [Sec.] Section 50-35, is not required for:

(1) Minor Lot Line Adjustment.

\* \* \*

(2) Conversion of an Outlot into a Lot.

\* \* \*

(3) Consolidation of Two or More Lots or a Part of a lot into One Lot.

\* \* \*

(4) Further Subdivision of a Commercial, Industrial or Multi-Family Residential Lot to Reflect a Change in Ownership, Deed, Mortgage or Lease Line.

\* \* \*

(5) Plat of Correction.

\* \* \*

(6) Plats for Certain Residentially Zoned Parcels Created by Deed Before June 1, 1958.

\* \* \*

(7) Plats for Existing Places of Worship, Private Schools, Country Clubs, Private Institutions and Similar Uses Located on Unplatted Parcels.

\* \* \*

(8) Plats for Certain Residential Lots located in the Rural Density Transfer Zone.

\* \* \*

(9) Parcels that satisfy Section 59-B-8.1 of Chapter 59 may be platted under the minor subdivision procedure if:

\* \* \*

(10) Combining a lot and adjoining property. Except in agricultural zones, the Planning Board may approve plats under the minor subdivision process to consolidate an existing platted lot, or part of a lot that contains a legally constructed one-family dwelling unit and a partition of land created as a result of a deed, [provided] if:

- (A) in a one-family residential zone, the partition of land created by deed cannot itself be platted under the area and dimensional standards of the zone;
- (B) any conditions applicable to the existing lot remain in full force and effect on the new lot;
- (C) any required street dedication is provided; and
- (D) the subject lot was not identified as an outlot on a plat.


(11) Creation of a Lot from a Part of a Lot. A part of a previously recorded lot that was created as a result of a deed transfer of land from the lot, and which contains a legally constructed one-family residential dwelling, may be converted into a lot under the minor subdivision procedures if:

- (A) the part of lot is located in a one-family residential zone; and
- (B) all applicable conditions or agreements applicable to the subdivision approval creating the original lot will also apply to the new lot. The conditions and agreements may include, but are not limited to, any adequate public facilities agreement, conservation easement, or building restriction lines.

\* \* \*

54           **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of  
55   Council adoption.

*Approved:*

  
Isiah Leggett, County Executive

April 22, 2013  
Date

*This is a correct copy of Council action.*

Linda M. Lauer

Linda M. Lauer April 23, 2013  
Linda M. Lauer, Clerk of the Council Date

April 23, 2013